

INITIAL STATEMENT OF REASONS

Subsection 2320(a)(2) Inspections and Monitoring.

SPECIFIC PURPOSE OF THE REGULATION

The proposed modification to subsection 2320(a)(2) will introduce a new comprehensive ongoing inspection program for all onshore marine oil terminals (MOTs) in California. This program will ensure the best achievable protection of the public health and safety and the environment.

NECESSITY

As part of the Lempert-Keene-Seastrand Oil Spill Prevention and Response Act of 1990 (the Act), §8755 of the Public Resources Code (P.R.C.) requires the State Lands Commission (the Commission) to adopt regulations for the operation of all marine terminals within the State of California. P.R.C. §8756 also requires the Commission to review and modify its regulations periodically so as to provide the best achievable protection of the public health and safety and the environment.

In order to establish the program of regulatory development and commence its inspection and monitoring activities, the Commission created the Marine Facilities Division (the Division) in November 1990. Since that time, the Division has established comprehensive regulations to govern safety of operations at marine oil terminals and training of marine terminal personnel. The most recent development in this ongoing process is the Commission's adoption of comprehensive structural and maintenance regulations under Title 24, Part 2, Volume 1 of the California Code of Regulations entitled "Marine Oil Terminal Engineering and Maintenance Standards" (the MOTEMS).

The proposed modification to the regulations will introduce the MOTEMS inspection and maintenance program for all onshore MOTs in California. Hitherto, Commission staff relied upon a triennial thorough examination of each MOT in the state. These triennial inspections did not have an agenda of items for inspection. Hence, they were non-specific and not as effective as a tool in providing the best achievable protection of the public health and safety and the environment. Also, MOT owners and operators did not have a specific list of items for inspection.

Since 1991 Commission staff, in consultation with industry and consultants, has developed comprehensive specific requirements in the MOTEMS. The majority of MOTs in California are over 50 years old. There were no existing standards at the time these MOTs were built. Since they were built, the size of tank vessels which berth at these MOTs has increased threefold. At the time they were built, there were no provisions for providing safety from seismic activity. The MOTEMS under 24 CCR Chapter 31F, Divisions 1 through 11, were adopted by the Commission on August 17, 2004 and approved by the Building Standards Commission on January 19, 2005. The

MOTEMS is the only comprehensive structural, mechanical, electrical and safety standard in the US.

The proposed modification to subsection 2320(a)(2) will enable MOT owners and operators to prepare for Commission inspections and plan for improvements and maintenance in a orderly and structured manner.

The MOTEMS inspections will be specific in that both Commission staff and MOT personnel will work in an orderly and controlled manner thus providing the best achievable protection of the public health and safety and the environment. All MOT owners and operators are fully aware of the provision of the MOTEMS. During its development, Commission staff conducted several industry workshops to familiarize the regulated community of the provisions of the MOTEMS, The necessity for the modification is shown below:

§2320. Inspections and Monitoring.

- (a) The Division shall carry out an inspection program which shall include the following:

. . .

- (2) ~~At least once every three years, the~~ On a continuing basis in accordance with Chapter 31F of Divisions 1 through 11, Title 24, Part 2, Volume 1 of the California Code of Regulations, the Division shall carry out or cause to be carried out a thorough examination inspections and investigations of each onshore marine terminal in the state to determine whether the structural integrity of the terminal, the oil transfer operations system and the safety equipment are designed and being maintained in a safe working condition.

The proposed modification will delete the existing provision of triennial thorough examinations of MOTs and replace that program with a comprehensive ongoing inspection and maintenance program that would ensure the best achievable protection of the public health and safety and the environment.

TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS, OR DOCUMENTS

Commission staff did not rely on any technical, theoretical, empirical reports or documents in proposing this amendment to subsection 2320(a)(2). However, during the development of the MOTEMS, Commission staff used several studies, reports and standards of various authoritative industrial associations, institutes and organizations. The MOTEMS identifies all these references.

REASONABLE ALTERNATIVES TO THE REGULATION AND THE AGENCY's REASONS FOR REJECTING THOSE ALTERNATIVES.

No other alternatives were presented to or considered by the Commission.

REASONABLE ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE IMPACT ON SMALL BUSINESSES

The Commission has not identified any alternatives that would lessen any adverse impact on small businesses.

EVIDENCE SUPPORTING FINDING OF NO SIGNIFICANT ADVERSE ECONOMIC IMPACT ON ANY BUSINESS

The Commission has determined that these regulations do not affect small businesses as defined in Government Code (Gov. C.) Section 11342.610, because all affected businesses are maritime oil transportation and terminal owners and operators, as specified under Gov. C. Section 11342.610(c)(7) and having annual gross receipts of more than \$1,500,000.